IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2006

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

WRIT PETITION No.4520 of 2006
and WPMP.Nos.4856 & 4857 of 2006

The Roman Catholic Diocese of Thanjavur
St. Xaviers Industrial Training Centre,
Thanjavur, Thanjavur District,
Represented by its Correspondent
Rev. Fr. R.Raphael ... Petitioner

Vs.

1. The Joint Director of Employment and
Training (CT and AT) Alandur Road
Guindy, Chennai - 600 032.

2. The Commissioner of Employment and
Training Alandur Road, Guindy,
Chennai - 600 032.

3. The State of Tamil Nadu, rep. by its
Secretary to Government, Labour and
Employment Department,
Fort St. George, Chennai - 600 009. .. Respondents

* * *

The Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus as stated therein.

* * *

For petitioner : Mr.M.Joseph Thatheus Jerome

For respondents : Mr.M.Mahalingam - GA

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O R D E R

The Writ Petition has been filed praying for the issuance of a Writ of Certiorarified Mandamus, to call for all the records relating to the orders of the first respondent made in his

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Rc.B.No.IT2/28470/99, dated 07.07.1999, and quash that portion of the above order refusing to grant salary, emoluments and service and pensionary benefits and direct the respondents to grant the salary, emoluments and service and pensionary benefits in so far as the sanctioned and approved post of WELDER INSTRUCTOR in the petitioner's St. Xavier's Industrial Training Centre, Thanjavur, Thanjavur District, is concerned from 01.11.1998 onwards.

2. Heard the learned counsel for the petitioner as well as for the respondents.

3. It is the case of the petitioner Industrial Training Centre that the Roman Catholic Diocese of Thanjavur Religious minority society has established and is administering several Charitable Institutions like Free Education Schools, Industrial (Schools) work Centers, Orphanages, Boarding Schools, Home for the aged and destitute. They are run for the benefit of the Roman Catholic Christian Community and for providing secular education to preserve and promote its religion and culture. The society consists only of Diocesan Priests and has been serving the society since the 19th century. The petitioner Training Centre is one of several such institutions established and administered by the society providing employment training for those students who come from economically and socially backward sections of the society who cannot afford regular education in colleges. The centre imparts training to its students in trades such as Motor Mechanic, Fitter, Welder, Turner, Carpentry and Cabinet Making.

4. It is also the case of the petitioner that the Roman Catholic Diocese of Thanjavur Religious minority society and the educational institutions run by the society have been declared as christian religious minority institutions by an order, dated 24.09.1976, made by a Division Bench of this Court in W.P.No.584 of 1975. Thus, the society and its educational institutions are coming under the protection of Article 30(1) of the Constitution of India. The education department of the state government has also declared the society and its institutions as religious minority institutions, vide its proceedings in Rc.No.24541/G3/76, dated 26.11.1976. Further, the petitioner Industrial Training Centre is a government recognised and aided institution. The government has sanctioned and approved several aided posts and aid to the extent of 75% of the salary fixed for the said posts are paid by them after the yearly audit, as per the Government Order in No.152, dated 04.06.1986.

5. The petitioner Training Centre had appointed A.Stephen Arulraj in the approved and aided post of Welder Instructor on 01.11.1998. The appointments were brought to the knowledge of the respondents for approval of salary, service and pensionary benefits

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as applicable to the sanctioned and approved posts. However, the Joint Director of Employment and Training, the first respondent herein, vide his proceedings in RC.B.No.IT2/28470/99, dated 07.07.1999, approved the said appointments. However, it was intimated that the salary, service and pensionary benefits will be granted only after obtaining an order of declaration from the Government that the Institution is a minority institution. Eventhough several representations were made, no steps were taken by the respondents to pay the salary or to grant the other benefits. It is further submitted by the petitioner that once the said institution has been declared as a religious minority Institution by a Court of law, the respondents cannot seek for further declaration of the status of the institution by the Government.

6. The learned counsel for the petitioner has relied on a decision of the Division Bench of this Court in the Secretary, D.G.Vaishnav College, Arumbakkam, Chennai, and another Vs. Dr.T.Venkataraman, Reader and Head, Post Graduate and Research, Department of Chemistry, D.G.Vaishnav College, Chennai, and 3 others (2001 (4) CTC 641), this Court has held as follows:

> " The appellant in W.A. No.2387 of 2001 has been granted a minority status by a declaration granted by a decree, dated 19.2.1988, by the Court of the Principal District Judge, Madras in A.S.No.275 of 1987. It is not disputed that the said decree had become final. As on date , the said decree has not been nullified. The learned counsel for the first respondent, submits that in view of G.O.(Ms.).270, dated 17.6.1998, the decree, which has been granted on 19.2.1988, has become inoperative. *"Prima facie, we are unable to agree with the said submission as the Government has been a party and suffered a decree on 19.2.1988 and the said decree having become final, the Government is bound by the same unless there is a specific legislation that too, if it is not an affront to the above decree granted by the judicial authority. Then the learned counsel takes us to the order of the Supreme Court in T.M.A. Pai Foundation and others Vs. State of Karnataka and others, LA.No.20 in WP(C) No.317 of 1993, dated 17.10.1994. It is not disputed that the said writ petition is still pending on the file of the Supreme Court. In the interim order passed on the above date, the Civil Court's decree granting minority status to the respondents, who have been parties therein, that is respondents 2 to 6, has not been taken cognisance of.*

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Particular reference has been made to the said respondents and the said order does not operate in rem. In fact that position has been clarified by a learned single Judge of this Court in The Correspondent, St. Ignatius Higher Secondary School, Kurumbanai - 629 251, Kanyakumari District and others Vs. Director of School Education, College Road, Chennai 6 and others, 1999 (I) CTC 121. It is not brought to our notice that this judgment of the learned single Judge has been over ruled. As such, we find a prima facie case in favour of the appellant in W.A.No.2387 of 2001 that it still enjoys minority status as on date."

7. On the contrary, learned counsel appearing for the respondents states that the salary and other benefits could be granted to the persons appointed in the sanctioned and approved posts, after orders passed by the government stating that the petitioner Industrial Training Institute is a religious minority institute. Learned counsel appearing for the respondent also relies on the order of the single Judge of this Court, dated 03.12.2004, made in W.P.No.27311 of 2004 (batch) , wherein this court has held as follows :-

"The issue as to the minority status is squarely covered by two Division Bench judgments of this Court in "THIRUMURUGA KIRUPANANDA VARIYAR THAVATHIRU SUNDARA SWAMIGAL, MEDICAL, EDUCATIONAL AND CHARITABLE TRUST, SALEM REP. BY ITS CHAIRMAN Vs. STATE OF TAMIL NADU & ANOTHER reported in (2001 (3) M.L.J. 433)" and in "THE SECRETARY, D.G.VAISHNAV COLLEGE, ARUMBAKKAM, CHENNAI AND ANOTHER Vs DR.T.VENKATARAMAN AND 3 OTHERS reported in (2001 (4) CTC 641)". The Division Bench had held that once the minority status was considered and approved by this Court, the Institutes cannot be insisted for obtaining a further declaration of minority status from the State Government. The said judgments had become final."

8. On a perusal of the documents filed before this Court and based on the decisions relied on by the learned counsel for the petitioner, it is clear that once minority status has been declared by an order of the Court, the authorities concerned cannot insist upon a further declaration of minority status by the Government for granting of benefits. Therefore, the order passed by the first respondent in Rc.B.No.IT2/28470 of 1999 , dated 07.07.1999 , is set aside in so far as it insists that the petitioner Industrial Training Centre should get a Government Order declaring it as a

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minority institution. Consequently, the respondents are directed to consider the request of the petitioner Industrial Training Institute for grant of salary, emoluments, service, educational and other benefits for the appointments made in the sanctioned and approved posts without insisting on a further declaration of minority status, if there are no other impediments in law for such grants being given, within a period of twelve weeks from the date of receipt of a copy of this order.

With the above directions, the writ petition is disposed of. Consequently, connected WPMPs are closed. No costs.

ssm

Sd/
Asst.Registrar

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Sub Asst.Registrar

To

1. The Joint Director of Employment and
Training (CT and AT) Alandur Road,
Guindy, Chennai - 600 032.

2. The Commissioner of Employment and
Training Alandur Road, Guindy,
Chennai - 600 032.

3. The Secretary to Government,
The State of Tamil Nadu,
Labour and Employment Department,
Fort St. George, Chennai - 600 009.

1 cc to Mr.M.Joseph Thatheus Jerome, Advocate, SR.25600

sgl (co)

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